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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 RICHARD CASE,

13 Plaintiff,

14 v.

15 DOUG WADDINGTON *et. al.*,

16 Defendants.

17 Case No. C06-5529RJB

18 REPORT AND
19 RECOMMENDATION

20 **NOTED FOR:**
21 **March 23, 2007**

22 This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge pursuant
23 to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Plaintiff has been given *in forma pauperis*
24 status (Dkt. # 5).

25 The court reviewed the complaint in this case and was unable to read portions of the
26 document. While the majority of the complaint can be deciphered, the court found itself guessing as
27 to the certain words or supplying words. There were several paragraphs, on page nine, the court
28 simply could not decipher. The court, ordered plaintiff to amend and provide service copies (Dkt. #
11). The amended complaint was due in court on or before January 12, 2007. Plaintiff has not
complied and instead objected to the order. (Dkt. # 13).

29 ORDER- 1

1 On December 26, 2006, the Honorable Judge Bryan affirmed the order requiring a legible
2 complaint and service copies be filed. Rather than comply with the courts order plaintiff has filed an
3 appeal to the Ninth Circuit (Dkt. # 15).

4 The court now recommends this action be **DISMISSED WITHOUT PREJUDICE** for
5 failure to comply with the order to file a legible complaint. The action cannot proceed without a
6 legible complaint. A proposed order accompanies this Report and Recommendation.

7 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
8 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.
9 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of
10 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule
11 72(b), the clerk is directed to set the matter for consideration on **March 23, 2007**, as noted in the
12 caption.

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14 DATED this 27 day of February, 2007.

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/S/ J. Kelley Arnold

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J. Kelley Arnold

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United States Magistrate Judge

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ORDER- 2